

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JOHN L. McGILL

v.

MINNESOTA MUTUAL LIFE
INSURANCE CO.

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C.A. No. 05-481S

MEMORANDUM AND ORDER

This action was referred to the Court for a Report and Recommendation regarding Defendant's Motion for Summary Judgment. (Document No. 20). A hearing on the Motion was held on December 21, 2006, and at that time, I disclosed that I am insured under a life insurance policy issued by Defendant. I also informed counsel that I had researched the issue and do not believe recusal is warranted based on that fact. However, out of an abundance of caution, I permitted counsel the opportunity to confer with their clients and requested that they advise me in writing by January 5, 2007 as to whether either party objected to my continued involvement in this case. Both parties sent timely letters indicating that they had no objection to my involvement in this case and do not intend to move for recusal.

In addition to responding to my request, Defendant's three-page single-spaced letter is replete with legal arguments and citations, and amounts to an improper surreply memorandum filed without leave of court. See LR Cv 7(b)(3). The rules of this Court encourage the orderly, prompt and fair disposition of cases filed in this District. By submitting a surreply brief without leave of Court, Defendant has delayed disposition of the Motion for Summary Judgment, and forced the Court to fashion a resolution which allows both parties to fully address the relevant issues. Although Plaintiff urges the Court to "reject and not consider" the letter submitted by Defendant,

in the Court's view, this approach is not practical. The Court has read and reviewed the arguments presented in the letter, and instead of attempting to "unring the bell," the better approach is to allow Plaintiff an opportunity to respond to the arguments contained therein. Accordingly, Plaintiff may file a response to the letter submitted by Defendant within seven (7) days of the date of this Order. Thereafter, there shall be no further submissions filed by either party regarding the Motion currently under advisement.

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
January 9, 2007